

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**CITIZENS FOR RESPONSIBLE
GOVERNMENT ADVOCATES, Inc.,**

Plaintiff,

-vs-

Case No. 14-C-1222

THOMAS BARLAND, *et al.*,

Defendants.

DECISION AND ORDER

On October 14, 2014, the Court issued a temporary restraining order prohibiting the defendants from “implementing, enforcing, or giving effect to the definition of ‘political purposes’ found in Wis. Stats. § 11.01(16) against communications expenditures, except as applied to expenditures for communications that expressly advocate the election or defeat of a clearly identified candidate or are the functional equivalent of express advocacy . . .” The Court also directed the defendants to file their response to the plaintiff’s motion for a preliminary injunction by October 21.

The plaintiff, Citizens for Responsible Government Advocates, Inc. (“CRG”), now moves for leave to file a reply brief. Previously, CRG indicated that it would not file a reply. Now, CRG asks to file a reply to respond to several issues raised by the defendants that were not

anticipated but that merit further briefing. The Court will allow CRG to file a reply as requested.

CRG also requests oral argument, explaining that “legal argumentation by the respective parties’ attorneys may help to clarify points of dispute and points of agreement and may assist the Court in resolving the legal issues at the heart of this case and in exercising its equitable discretion.” The Court agrees with CRG that oral argument may be helpful in this regard. Accordingly, the Court will schedule oral argument as requested, with the understanding that the hearing may be removed from the calendar if the Court decides, after further consideration of the parties’ briefs, that oral argument is not needed.

Finally, CRG asks the Court to extend the temporary restraining order until November 11, 2014. Extending the TRO until November 11 would represent the full 28 days allowed by the Federal Rules of Civil Procedure, absent consent of the parties. Fed. R. Civ. P. 65(b)(2) (a TRO expires “at the time after entry – not to exceed 14 days – that the court sets, unless before that time the court, for good cause, extends it for a like period or the adverse party consents to a longer extension”). An additional day is added since November 11 is a federal holiday. Fed. R. Civ. P. 6(a)(1)(C).

To clarify proceedings going forward, the Court agrees that there is good cause to extend the TRO for the entire 28-day period (plus one day), particularly in light of the issues raised in the defendants' response, the unexpected need for reply briefing, and the possibility of oral argument. However, the Court also notes that it intends to keep the TRO in place until the Court either vacates the injunction or replaces it with a preliminary injunction, recognizing, of course, that when a TRO is "extended beyond the 28-day limit without the consent of the enjoined party, it becomes in effect a preliminary injunction that is appealable, but the order remains effective." *H-D Michigan, LLC v. Hellenic Duty Free Shops S.A.*, 694 F.3d 827, 844 (7th Cir. 2012).

**NOW, THEREFORE, BASED ON THE FOREGOING, IT IS
HEREBY ORDERED THAT:**

1. CRG's motion for leave to file a reply brief, not to exceed fifteen (15) pages [ECF No. 24] is **GRANTED**. CRG's reply is due by **October 24, 2014**;

2. CRG's request for oral argument [ECF No. 24] is **GRANTED**. The Court will hear oral argument from the parties on **October 31, 2014** at **1:00 p.m. (CST)** in Room 320, United States Courthouse, 517 E. Wisconsin Avenue, Milwaukee, Wisconsin; and

3. The Court finds that there is good cause to extend the temporary restraining order until November 12, 2014.

Dated at Milwaukee, Wisconsin, this 22nd day of October, 2014.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge